

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

PURE IMAGINATION, LLC

Plaintiff,

v.

ADAPTICS LIMITED, and  
JOHN DOES 1-5,

Defendants.

No.

**COMPLAINT  
FOR PATENT INFRINGEMENT**

**JURY DEMAND**

COMES NOW Plaintiff, PURE IMAGINATION, LLC, by undersigned counsel, and asserts this Complaint against Defendants, ADAPTICS LIMITED and JOHN DOES 1-5, seeking money damages and equitable relief for infringement of U.S. Patent No. 8,829,365 B1 (“’365 Patent”), and alleges as follows:

**PARTIES**

1. Plaintiff PURE IMAGINATION, LLC is a Washington limited liability company located in Washougal, Washington. Plaintiff is the assignee of all right, title, and interest in and to the ‘365 Patent

2. Plaintiff is informed and believes and on that basis alleges that Defendant, ADAPTICS LIMITED, is a business organized and existing under the laws of the Republic

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3 of Ireland with its principal place of US business in San Francisco, California.

4 3. Plaintiff is informed and believes and on that basis alleges that JOHN DOES  
5 1-5 operate and control Adaptics Limited and direct the infringing activity to the forum  
6 state, and that they directly benefit from their operation and control of Adaptics and its  
7 infringing activities.

### 8 JURISDICTION AND VENUE

9 4. This Court has Federal Question subject matter jurisdiction over this action  
10 pursuant to 28 U.S.C. §§ 1331, 1338 as an action arising under United States patent laws.

11 5. Plaintiff is informed and believes, and on that basis alleges, that this Court  
12 has personal jurisdiction over Defendants; that Defendants conducted and do conduct  
13 business within the State of Washington, and more particularly the Western District of  
14 Washington; that Defendants directly and/or through intermediaries, offer for sale, sell, and  
15 advertise their products, including products that are the subject of this litigation, within the  
16 State of Washington, and more particularly the Western District of Washington; and that  
17 Defendants directly and/or thorough intermediaries, committed the tort of patent  
18 infringement within the State of Washington and more particularly within the Western  
19 District of Washington; and/or that Defendants transacted and conducted business in this  
20 judicial district, purposefully availing themselves of the benefits and laws of this judicial  
21 district, and directing significant and substantive contacts with this judicial district.

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23 6. Plaintiff is informed and believes and on that basis alleges that venue lies in  
24 this judicial district, pursuant to 28 U.S.C. § 1400(b) and 28 U.S.C. § 1391(b), in that  
25 Defendants committed acts of infringement in this district and/or the claims substantially  
26 arose in this jurisdiction as a result of acts committed by Defendants within this judicial  
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3 district in the course of Defendants doing business in this district and Defendants reside in  
4 this district as residence is defined in 28 U.S.C. § 1391(c).

5 **CLAIM FOR RELIEF FOR INFRINGEMENT**

6 7. Plaintiff re-alleges the foregoing allegations.

7 8. The '365 Patent was duly and legally issued by the United States Patent &  
8 Trademark Office on September 9, 2014 after full and fair examination. Plaintiff is the  
9 assignee of all rights, title, and interest in and to the '365 Patent and possesses all rights of  
10 recovery under the '365 Patent. A true and correct copy of the '365 Patent is attached  
11 hereto, marked as **Exhibit "A"** and by this reference incorporated herein.

12 9. Plaintiff is informed and believes and based thereon alleges that Defendants  
13 had notice of the '365 Patent.

14 10. Plaintiff is informed and believes and on that basis alleges that Defendant  
15 ADAPTICS, under the direction and control of and for the benefit of Defendants John Doe  
16 1-5, purposefully and willfully manufactures, markets, and/or sells a system, DROP,  
17 comprising the Drop Kitchen Connected Scale and the Drop Kitchen Recipe App, which  
18 infringes one or more claims of the '365 Patent; that Defendants have, within the past six  
19 years infringed, and continue to literally and/or equivalently infringe, directly,  
20 contributorily, and/or by inducement, one or more claims of the '365 Patent by making,  
21 using, offering for sale, selling and/or importing in this district and elsewhere in the United  
22 States devices, and methods incorporated in devices, to wit, DROP, covered by claim(s) of  
23 the '365 Patent and devices embodying the product covered by claim(s) of the '365 Patent  
24 without the consent or permission of Plaintiff.

25 11. Plaintiff is entitled to recover from Defendants the damages sustained by  
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3 Plaintiff as a result of Defendants' wrongful acts in an amount subject to proof at trial, but  
4 not less than a reasonable royalty.

5 12. Plaintiff is informed and believes that Defendants' infringement of the '365  
6 Patent has been willful and deliberate, entitling Plaintiff to increased damages under 35  
7 U.S.C. § 284 and to attorneys' fees and costs incurred in prosecuting this action under 35  
8 U.S.C. § 285

9 13. Plaintiff manufactures, markets and sells through one or more licensees  
10 within the United States products, including the Perfect Bake® and Perfect Drink®, which  
11 are covered by the '365 Patent ("Plaintiff's Licensed Products").

12 14. The Perfect Bake and Perfect Drink are marketed and sold through the same  
13 or similar marketing channels as the infringing DROP product, such that the infringing  
14 DROP product directly competes with Plaintiff's Licensed Products.

15 15. The infringing DROP product includes a combination of a scale and an  
16 application program which is loaded onto an Apple® iPad® tablet computer or similar  
17 portable electronic device. The scale and program are marketed and sold via brick-and-  
18 mortar stores and the internet, including the Apple Store® which has both brick-and-mortar  
19 stores and a significant online presence. Defendants distribute the application software  
20 through the Apple App Store®.

21 16. Defendants advertised the infringing DROP product via print and online  
22 channels in which Plaintiff and its licensees also advertise. Defendants sought and obtained  
23 press coverage from, and put out press releases through, publications and forums in which  
24 Plaintiff's Licensed Products have also been advertised and featured.

25 17. Defendants' infringing DROP product directly competes with Plaintiff's  
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3 Licensed Products in the relevant marketplace. Sales of Defendants' infringing DROP  
4 product directly impinge upon sales of Plaintiff's Licensed Product.

5 18. Defendants' infringing DROP sales will cause ongoing and future harm to  
6 Plaintiff, which may be difficult or impossible to reduce to a sum certain of money  
7 damages. The interactive nature of Plaintiff's Licensed Products and the infringing DROP  
8 product provide valuable marketing channels to market other products from Plaintiff's  
9 Licensees, as well as third parties seeking to market and sell complimentary products and  
10 services to Plaintiff's Licensee's customers. The likely future financial benefit from this  
11 marketing is substantial but not easily quantifiable, and therefore the likely future financial  
12 harm caused by current sales of infringing products is also substantial but not easily  
13 quantifiable.  
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15 19. Plaintiff has been and continues to be irreparably harmed by the acts of  
16 Defendants and this harm is not remediable by damages alone. A patent is a property right  
17 of limited duration. Every day of continuing infringement lessens, taints, and depletes the  
18 rights and entitlements granted by the '365 Patent. Every day of continuing infringement  
19 interferes with Plaintiff's ability to realize value on the '365 Patent through licensing or  
20 directly marketing to others and/or through price erosion.

21 20. Plaintiff's '365 Patent protects key feature(s) of Plaintiff's Licensed  
22 Products, such as the real time filling feature. Defendants included one or more of those  
23 feature(s), including the real time filling feature, in its product to further irreparably harm  
24 Plaintiff.  
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26 21. The public has an overriding interest in protecting patent rights and in the  
27 enforcement of patent laws.  
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22. Unless Plaintiff receives temporary, preliminary, and permanent injunctive relief enjoining Defendants' sale of infringing articles, including DROP, Plaintiff will be irreparably injured.

23. Defendants' infringement of Plaintiff's exclusive rights under the '365 Patent will continue to damage Plaintiff's business, causing irreparable harm for which there is no adequate remedy at law, unless enjoined by this Court.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against the Defendants as follows:

1. Declaring the '365 Patent claims to be valid and infringed by Defendant;
2. Finding the Defendants jointly and severally liable for the infringement, and the damages flowing therefrom.
3. Awarding and ordering an accounting and disgorgement of all Defendants' profits and/or damages suffered by Plaintiff due to Defendants' infringement of the claims of the '365 Patent, including all amounts necessary to make Plaintiff whole but not less than a reasonable royalty, pursuant to 35 U.S.C. § 284;
4. Awarding to Plaintiff enhanced damages up to and including trebling of Plaintiff's damages pursuant to 35 U.S.C. § 284, for Defendants' willful infringement;
5. Enjoining Defendants temporarily, preliminarily, and permanently from selling or offering for sale products which infringe the '365 Patent, to wit, that product called DROP, including the Drop Kitchen Connected Scale and the Drop Kitchen Recipe App;
6. Ordering Defendants to notify in writing each and every purchaser of Defendants' infringing products that DROP, including the Drop Kitchen Connected Scale

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3 and the Drop Kitchen Recipe App, infringes the '365 Patent and that use of that product  
4 should cease, and further to provide the address and phone number to Plaintiff of each  
5 purchaser of Defendants' infringing products so that Plaintiff can monitor that infringement  
6 has ceased;

7 7. Ordering Defendants to notify in writing each and every seller and  
8 distributor of Defendants' infringing products that DROP, including the Drop Kitchen  
9 Connected Scale and the Drop Kitchen Recipe App, infringes the '365 Patent and that sales  
10 and offers of sale of that product should cease, and further to provide the address and  
11 phone number to Plaintiff of each seller or distributor of infringing products so that Plaintiff  
12 can monitor that infringement has ceased;

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14 8. Ordering Defendants to notify in writing each and every importer of  
15 Defendants' infringing products that DROP, including the Drop Kitchen Connected Scale  
16 and the Drop Kitchen Recipe App, infringes the '365 Patent and that imports of that product  
17 into the United States should cease, and further to provide the address and phone number  
18 to Plaintiff of each importer of infringing products so that Plaintiff can monitor that  
19 infringement has ceased;

20 9. Ordering destruction of Defendants' inventory of infringing product  
21 including, but not necessarily limited to, Defendants' product DROP, including the Drop  
22 Kitchen Connected Scale and the Drop Kitchen Recipe App;

23 10. Ordering Defendants to return to the Court with proof of compliance of this  
24 Order within ninety (90) days of entry thereof, with a copy served on Plaintiff's attorney;

25 11. Awarding Plaintiff its costs of suit, including the costs of experts and  
26 reasonable attorneys' fees pursuant to, *inter alia*, 35 U.S.C. § 285 due to the exceptional  
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nature of this case, or as otherwise permitted by law;

12. Awarding pre- and post- judgment interest; and,

13. Awarding such other and further relief as may be just and proper.

**JURY DEMAND**

Plaintiff hereby demands trial by jury in this action.

DATED THIS December 12, 2014 Respectfully submitted,

/s/ Kurt M. Rylander

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